

## REMARKS

Applicants enclose a copy of Landsberg et al. Landsberg et al. was cited in the above-captioned application by the Examiner (reference U) in the form PTO-892 attached to the Office Action mailed on January 21, 2003, but the Examiner transmitted a copy of the abstract with the Office Action rather than the complete reference. The Examiner cited Landsberg et al. in the present application and, accordingly, Applicants do not believe that 37 C.F.R. §§ 1.97(d) and (e) are applicable. Applicants are simply enclosing a copy of Landsberg et al. so that the complete reference is on record in this application because the reference was discussed by the Examiner but only the abstract was provided.

Claims 1-9, 12, 13, and 15-18 are found allowable.

The Examiner has rejected claims 14 under 35 U.S.C. § 102(b) as being anticipated by Vacanti et al. The Examiner contends that Vacanti et al. teaches the method including replacing and removing diseased tissues with an acellular graft coated with basement membrane. Applicants respectfully traverse the Examiner's rejection of claim 14 over Vacanti et al. because claim 14 is not anticipated by Vacanti et al.

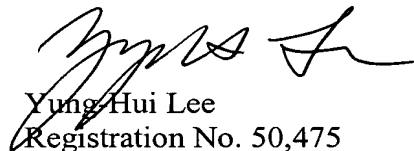
Anticipation exists only if all the elements of the claimed invention are present in a product or process disclosed, expressly or inherently, in a single prior art reference. *Hazeltine Corp. v. RCA Corp.*, 468 U.S. 1228 (1984). Claim 14 requires that the damaged or diseased tissues be replaced with an acellular graft construct comprising vertebrate submucosa or basement membrane. Vacanti et al. teaches a synthetic biopolymer matrix to which cartilage cells are attached before replacement of damaged tissues with the graft construct. The synthetic biopolymer matrix disclosed by Vacanti cannot be "acellular" at the time of implantation because the synthetic biopolymer matrix must have cells attached to it before damaged tissues are replaced with the graft construct (see column 5, lines 43-50 of Vacanti et al.).

Accordingly, Vacanti et al. cannot anticipate claim 14 because a required step in the Applicants' claimed method is "replacing the removed portion of tissue with an acellular graft construct" and Vacanti et al. does not teach or disclose this required step. Withdrawal of the rejection of claim 14 under 35 U.S.C. § 102(b) over Vacanti et al. is respectfully requested.

### **CONCLUSION**

The foregoing remarks are believed to fully respond to the Examiner's rejection. The claims are in condition for allowance. Applicants respectfully request allowance of the claims and passage of the application to issuance.

Respectfully submitted,



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